

**City of Fayetteville
Regular Mayor and City Council Meeting
Minutes
December 3, 2015**

Call to Order

The Mayor and City Council of Fayetteville met in regular session on December 3, 2015 at 7:00 p.m. in the Council Chambers at City Hall. Mayor Greg Clifton called the meeting to order, followed by Opening Prayer and led those attending in the Pledge of Allegiance to the Flag. Council members present were: Mickey Edwards, Edward Johnson, Paul Oddo, Scott Stacy, and James Williams. Staff members present were City Manager Ray Gibson and City Clerk Anne Barksdale.

Stacy moved to approve the agenda as presented. Oddo seconded the motion. Motion carried unanimously.

Stacy moved to approve the minutes of the Called City Council Meeting of December 1, 2015. Williams seconded the motion. Motion carried unanimously.

Stacy moved to approve the minutes of the Regular City Council Meeting of November 19, 2015. Williams seconded the motion. Motion carried unanimously.

Public Hearings:

Mayor Clifton called Consider Beer & Wine License for Wal Mart Stores East, LP d/b/a Wal Mart #594 – 125 Pavilion Parkway for Kimberly P. Beeler.

Anne Barksdale, City Clerk said application is complete and has been approved.

There were no public comments.

Johnson moved to approve Beer & Wine License for Wal Mart Stores East, LP d/b/a Wal Mart #594 – 125 Pavilion Parkway for Kimberly P. Beeler.

Oddo seconded the motion. Motion carried unanimously.

Mayor Clifton called Consider Beer & Wine License for Moon Mart Gas Station – 537 North Glynn Street for Mohsin Ali Khan.

Anne Barksdale, City Clerk said application is complete and has been approved.

There were no public comments.

Oddo moved to approve Beer & Wine License for Moon Mart Gas Station – 537 North Glynn Street for Mohsin Ali Khan.

Johnson seconded the motion. Motion carried unanimously.

Mayor Clifton called Consider #0-25-15 – FY 2015 Budget Review – Public Hearing and 1st Reading.

Mike Bush, Director of Finance and Administration said this ordinance is to amend the Fiscal Year 2015 Budgets to comply with Federal and State Regulations. We will show all budgets adopted for 2015, the original budget, current budget, budget amendments for the year-end adjustments, and a final budget. Along with the budgets will be the actual expenses spent during the year and a variance between what the final budget is and what the actual revenues and expenditures were for 2015. Below is a summary of the amended budgets:

Fund	Current Budget	Amended Budget
General Fund	11,259,436	11,068,225
Confiscated Asset Fund	45,000	45,500
Hotel / Motel Fund	225,000	246,500
Vehicle Excise Tax Fund	121,000	152,000
Capital Projects Fund	1,465,654	1,465,654
Impact Fee Fund	247,045	247,045
SPLOST Fund	1,423,507	2,281,007
Water & Sewer Fund	5,958,689	5,958,689
Solid Waste Fund	640,685	662,473
Downtown Development Fund	536,535	567,535
Mainstreet Fund	555,620	655,381
Cemetery Perpetual Fund	8,500	17,1400

There were no public comments.

Mayor Clifton stated this was posted for 1st Reading.

Mayor Clifton called Consider #0-26-15 – Rezone Request from Caddis Healthcare (Chris Grider) – 23.7 Acres Total (parcel #0522041A 8.89 acres) Currently Zoned C-3 (Highway Commercial) and (parcel #0522041 14.81 acres) Currently Zoned R-40 (Single Family Residential) to MO (Medical Office) – 936 West Lanier Avenue – Public Hearing and 1st Reading.

Mayor Clifton stated that Georgia Law requires that certain disclosures have to be made when considering any rezoning. He added he would read the conflict statement for this rezoning and the next rezoning, item #7 – Consider #0-27-15 – Rezone request from Mark Wurster for Promenade Parkway Parcel #0538088.

Mayor Clifton asked the Council “to the best of your knowledge gentlemen do you or any member of your family have a property interest in any real property that could be affected beneficially or adversely by the approval or denial of the petitions for rezoning that are under consideration?”

All Council Members and Mayor Clifton responded no.

Mayor Clifton asked the Council “to the best of your knowledge do you or any member of your family have a financial interest in any business entity which has a property interest in any real property that could be affected, beneficially or adversely, by the approval or denial of the petition for rezoning that is under consideration?”

All Council Members and Mayor Clifton responded no.

Mayor Clifton asked the City Clerk “to state whether any applicant for rezoning has filed a campaign contribution disclosure report in connection with the petition for rezoning and if so, will the Clerk please indicate whether the applicant made any campaign contributions to the Mayor or a member of the Council aggregating \$250.00 or more within the two (2) years preceding the filing of the petition for rezoning.

Anne Barksdale, City Clerk, responded that no disclosure reports had been filed.

Mayor Clifton stated that if any member of the public speaks in opposition to the petitions for rezoning, they must first state whether, within the two years immediately preceding the filing of the petition for rezoning that you oppose, you made campaign contributions aggregating \$250.00 or more to the Mayor or any other member of the City Council. If you have, please state whether you have filed a disclosure report with the city within five days of the first hearing on these petitions for rezoning.

Mayor Clifton requested that any member of the public that speaks in support or opposition of the petition for rezoning coming under consideration, state their name and address for the record.

Mayor Clifton stated that written copies of the zoning standards and the policies and procedures governing the calling and conducting of these hearings are available from the City Clerk if anyone would like a copy.

Katie Newman, with Caddis Healthcare described what they would like to see for the development of Caddis Healthcare. Kirby Pate, the architect for the project, added his thoughts about the project.

Brian Wismer, Director of Community Development stated Caddis Healthcare is requesting to rezone 23.7 acres (parcels 0522041 & 0522041A) located at 936 W. Lanier Avenue. The subject property is currently zoned C-3 (Highway Commercial) in the front, and R-40 (Single Family Residential) in the back. The applicant is seeking MO (Medical Office) zoning for the entire property to allow for the development of a senior living facility. Ingress and egress to the property will be via the existing curb cut located on Highway 54 / West Lanier Avenue.

Adjoining properties and zoning are as follows:

- To the north is zoned C-3 (Highway Commercial).
- To the south is zoned R-30 (Single Family Residential).
- To the east is zoned S-Z (County Landfill)
- To the west is zoned O&I (Office & Institutional).

At the November 17, 2015 meeting, P&Z Commissioners reviewed this application and unanimously recommended the rezoning to City Council as proposed.

Mr. Wismer added the MO zone is described as follows:

MO - medical/office. This district is created to provide a campus like setting that allows for the establishment of local and regional medical centers. The medical/office zoning district also provides the opportunity for allied health services, as well as necessary support businesses, to locate within the MO district.

The applicant is proposing to construct a three (3) story building with eighty (80) independent living units, a two (2) story building with fifty-six (56) assisted living units and a one (1) story building with thirty-two (32) memory care units.

The Comprehensive Plan places this property in the *Medical Mixed Use* character area. Within Medical Mixed Use, the following description is given:

This category refers to a campus-like setting that allows for the establishment of local and regional medical centers, allied health services and necessary support businesses. Uses deemed appropriate in this area include: offices, planned residential developments, service related commercial establishments.

He reviewed the following rezoning standards:

1. *Will the zoning proposal permit a use that is incompatible with existing uses and zoning of adjacent and nearby property? Can such incompatibility be mitigated?*

No. The proposal is consistent with the Comp Plan /FLU map.

2. *Is the zoning proposal in conformity with goals, policies and intent of the future land use plan for the physical development of the area?*

Yes. Planned residential developments are deemed appropriate in the Medical Mixed Use category.

3. *Will the zoning proposal adversely affect the existing use or usability of adjacent or nearby property?*

No.

4. *Are the present zoning district boundaries illogically drawn in relation to existing conditions in the area?*

No.

5. *Is the change requested out of scale with the needs of the City as a whole or the immediate neighborhood?*

No. The rezoning request is reasonable given the growth in the senior population in the City of Fayetteville and the lack of available senior housing.

6. *Is there reasonable evidence based upon existing and anticipated land use that would indicate a mistake was made in the original zoning of the property?*

No.

Mr. Wismer also reviewed the socio-economic factors associated with this project:

1. *Are there existing or changing conditions affecting the use or development of the property which give supporting grounds for either approval or disapproval of the zoning proposal?*

Yes. Although the parcel fronting the highway is currently zoned for highway commercial uses, the corridor is arguably overbuilt with retail and office uses, given the current vacancy rates in the immediate area. The requested zoning to allow for a senior living facility will better address the current needs of the community and is consistent with these changing conditions as well as the Comp Plan.

2. *Does the subject property have a reasonable economic use as currently zoned?*

Yes. However, there has been no interest in the property under the current zoning.

3. *Has the property been undeveloped an unusual length of time as currently zoned,*

considered in the context of land development in the vicinity of the property?

Yes. The property has been vacant for several years.

4. Is it possible to find adequate sites already appropriately zoned for the permitted uses in the zoning district proposed in the general service area of the subject property?

No. There currently are no appropriately zoned properties in the general service area.

Mr. Wismer said the proposed Senior Living Development will continue to add to the types of available housing, offering specific housing and assistance needed for seniors. The City of Fayetteville has been a proponent of the Atlanta Regional Commission's *Lifelong Communities* concept which encourages the availability of housing choices for all stages of life.

The concept plan submitted with this zoning application is for reference of proposed uses only, and although Staff has done a preliminary review of the proposed layout and elevations, the plan has not been reviewed for compliance with all City codes. If approved for rezoning, development plans will be reviewed separately by the Planning & Zoning Commission at a later date.

Therefore, he recommended it is beneficial for the City to have this underutilized property developed in a way that is consistent with the Comprehensive Plan, while providing a needed service to the seniors of Fayetteville. Staff supports an approval for the rezoning request as submitted.

Public Comments were made by resident Larry Dell who asked about a traffic control device to be added to the intersection of Marquis Drive and Highway 54 W. He also suggested a traffic study be done.

Resident Al Hovey-King also commented about this project and reminded council that the zoning ordinance should follow the building of influence in the area, which in this case is Piedmont-Fayette Hospital.

Mayor Clifton stated this was posted for 1st Reading.

Mayor Clifton called Consider #0-27-15 – Rezone Request from Mark Wurster to Rezone 19.048 Acres from C-3 (Highway Commercial) to M-1 (Light Manufacturing) – Promenade Parkway Parcel #0538088 – Public Hearing and 1st Reading.

Brian Wismer, Director of Community Development stated the applicant is requesting to rezone 19.048 acres of undeveloped property located on Promenade Parkway across from the Pavilion. The subject property is currently zoned C-3 (Highway Commercial) and the applicant is seeking M-1 (Light Manufacturing) zoning to allow for the future development of an industrial park. The applicant owns Kenwood Business Park located in the county, and proposes similar buildings with brick fronts and metal sides for the commercial/ industrial/business park. The property would

ultimately be subdivided into 18 parcels and replatted. Ingress and egress to the property will be via the existing road (Promenade Parkway). Adjoining properties and zoning are as follows:

- To the north is Georgia Power property.
- To the south is zoned R-40 (County Residential).
- To the east is zoned C-3(Highway Commercial -undeveloped)
- To the west is Fayette Commons Shopping Center, zoned C-3 (Highway Commercial).

He added, at the November 17, 2015 meeting, P&Z Commissioners reviewed this application and unanimously recommended the rezoning to City Council, with the condition that the normal 100' buffer between M-1 and residential properties be imposed.

The M-1 zone is described as follows:

M-1 light manufacturing. This district is created to provide a location for those light industrial uses which are able to meet comparatively rigid specifications for nuisance-free operation and which do not create excessive noise, odor, smoke, or dust or possess other objectionable characteristics which might be detrimental to surrounding neighborhoods, or to the other uses permitted in the district.

The applicant is proposing to subdivide the property and replat it into 18 parcels for development of an Industrial Park.

Mr. Wismer said the Comprehensive Plan places this property in the *Neighborhood Mixed Use* character area. Within Neighborhood Mixed Use, the following description is given:

Mixed land uses appropriate for a more residential, less densely populated area. These land uses provide a transition from downtown mixed -use to residential and other land uses. This area allows for an appropriate level of commercial and office activities that have a minimal impact on the surrounding residential uses. A balance of residential uses appropriate for this area can include single -family detached, townhouses, and condominiums. Appropriate non- residential uses include neighborhood scale retail and service businesses and public institutional and professional uses.

When the Comp Plan was adopted in 2006, the community planners anticipated commercial/retail growth spurred from the Pavilion to continue across the street to Promenade Parkway. Although this did initially occur (to a limited degree) along the highway frontage, the retail development has largely been unsustainable and has struggled to maintain occupancy. The likelihood that retail and commercial growth would be marketable behind the highway frontage on Promenade Parkway is almost non-existent. Market forces have clearly shown that it is undesirable for this use, and therefore, should be looked at from a new perspective. The property's location near the highway, and being far removed from the City's center makes it more economically feasible for consideration as an industrial park.

Mr. Wismer reviewed rezoning standards as follows:

- 2. Will the zoning proposal permit a use that is incompatible with existing uses and zoning of adjacent and nearby property? Can such incompatibility be mitigated?*

No. The proposal is consistent with other Industrial areas in the vicinity, and the City at large. The neighboring North 85 Parkway has a similar zoning layout, with C-3 (Highway Commercial) fronting M-1 (Light Manufacturing), as does East Fayette Industrial Park located at Robinson Road and Hwy 54 East. The uses inside Industrial Way are surrounded by residential zoning classifications.

Regarding this property, mitigation between the M-1 and R-40 (County) zoning to the south should be accommodated with the required buffers and setbacks. Although the applicant's plan indicates a 75' rear buffer, the City's standard buffer between residential and industrial is 100'. Because this residential property is actually located in the County, the ordinance does not automatically apply; therefore the final depth of the buffer zones shall be determined by City Council.

- 7. Is the zoning proposal in conformity with goals, policies and intent of the future land use plan for the physical development of the area?*

No. The Neighborhood Mixed Use category calls for single family residential, neighborhood scale retail, service businesses and professional uses. The area surrounding this property already has underutilized retail space. After many years with no interest in developing the property under its current C-3 zoning, an industrial zoning could be more appropriate to this parcel. It is not uncommon for property to be rezoned to a different zoning designation after being underutilized for many years.

- 8. Will the zoning proposal adversely affect the existing use or usability of adjacent or nearby property?*

No. The surrounding area is the established Highway 85 corridor and the existing residential neighborhood located in the county. Other M-1 zoned properties in the City are similarly fronted with C-3 (Highway Commercial) property and surrounded by residential zoning.

- 9. Are the present zoning district boundaries illogically drawn in relation to existing conditions in the area?*

No.

- 10. Is the change requested out of scale with the needs of the City as a whole or the immediate neighborhood?*

No. The City currently has very limited M-1 zoned property available. The rezoning request is reasonable given the lack of interest in retail development in the surrounding area.

11. Is there reasonable evidence based upon existing and anticipated land use that would indicate a mistake was made in the original zoning of the property?

Not originally. In 1999 the subject property was part of a development project that included Uptown Square and Fayette Promenade. Much of the surrounding property was zoned C-3 to accommodate growth for retail/commercial needs with the Pavilion serving as the anchor. Given the development pattern of the surrounding properties, the current C-3 zoning is unlikely to ever be utilized.

He also reviewed socio-economic factors:

5. Are there existing or changing conditions affecting the use or development of the property which give supporting grounds for either approval or disapproval of the zoning proposal?

Yes. This tract has remained vacant with no commercial interest for more than 15 years. The property has minimal highway frontage which makes it extremely difficult to meet the requirements for most commercial development. An industrial zoning classification could be more applicable for this parcel and more beneficial to the City.

6. Does the subject property have a reasonable economic use as currently zoned?

Unlikely. See #1.

7. Has the property been undeveloped an unusual length of time as currently zoned, considered in the context of land development in the vicinity of the property?

Yes. See #1.

8. Is it possible to find adequate sites already appropriately zoned for the permitted uses in the zoning district proposed in the general service area of the subject property?

No. This property lies near the edge of the City limits, and there currently are very few appropriately zoned properties in the general service area.

Mr. Wismer continued, although the applicant is requesting a rezoning which differs from the original use planned for this property (industrial vs. retail/commercial), the minimal highway visibility and lack of interest in commercial development for this property suggest an industrial zoning classification could be more appropriate for this parcel.

The City has established precedent in granting a rezoning which differs from the original use intended when those planned development patterns and market conditions changed, or in this case, never came to fruition.

Therefore, due to these reasons, and the limited use of the property as currently zoned, Staff supports an approval for the rezoning request as submitted, with the condition that the 100' buffer be implemented along the property line adjacent to residentially zoned lots.

There were no public comments.

Mayor Clifton stated this was posted for 1st Reading.

Mayor Clifton called Consider R-37-15 – TAD Agreement Highway Corridor – 2nd Reading.

Councilmember Johnson asked to table this item until the next City Council meeting of December 17th.

Councilmember Stacy amended the motion to table until December 28th.

After discussion on time constraints if the TAD is to be implemented, Councilmember Oddo seconded the motion made by Councilmember Johnson to table this item until December 17, 2015. Motion carried unanimously.

Mayor Clifton called Consider #0-28-15 – Social Hosting Ordinance – Public Hearing and 1st Reading.

Ray Gibson, City Manager stated over the last number of years AVPRIDE and the local Family Partnership Collaborative, Fayette FACTOR, have been working to help address the issue of underage drinking within Fayette County. During their research they arrived at the following conclusions:

- *Students in Fayette County significantly exceed the state averages for drinking in the last 30 days and binge drinking.*
- *School is not a preferred place to drink alcohol. Thus the penalties for being caught are high enough to deter use during school hours.*
- *Adults are more disapproving of minor aged students using tobacco than they are of minor students using alcohol.*
- *The availability and ease of access to alcohol is very widespread in Fayette County.*
- *Much of the drinking that takes place among minors happens on the weekends in their homes or in the homes of their friends.*
- *Education about ATOD ends after health class in the 9th grade.*
- *There is a major spike in alcohol use between 8th and 10th grade.*
- *Fayette 12th graders rank #27 in the state of GA for alcohol abuse, meaning that high school seniors in 132 counties in GA drink less than Fayette County High school seniors.*
- *AVPRIDE and our local collaborative came up with a number of contributing factors that we believe feeds into the above data about Fayette County minors.*

Based on their findings, Fayette FACTOR moved forward in *addressing alcohol abuse amongst minors* by adding it to their Annual Plan. This action item was aimed at accomplishing the following three things:

1. *Develop an Underage Drinking Prevention Plan as a component of the initiative SAVE (Substance Abuse and Violence Education) and*
2. *start a youth coalition to help address the problems above; and*
3. *Establish and implement Youth Service Learning Projects to engage youth in the community.*

Mr. Gibson added, as part of this work plan AVPRIDE and Fayette FACTOR, in strong collaboration with community leaders, including the Fayetteville Police Department, crafted a draft Social Host Ordinance. The Ordinance has since been adopted by Fayette County and Peachtree City. City staff has reviewed the Social Host Ordinance and are requesting approval of this ordinance as well.

There was one public comment by resident Larry Dell who asked if this ordinance would cover rented houses for parties or gatherings. Mr. Gibson answered yes. Police Chief Scott Pitts added this ordinance would give parents more teeth and backing to say no to their children concerning alcohol use.

Mayor Clifton said this was posted for 1st Reading.

New Business:

Mayor Clifton called Consider R-38-15 – The Ridge Nature Area Grant Application.

Ray Gibson, City Manager stated in coordination with the Southern Conservation Trust (SCT), the City of Fayetteville will be submitting a grant application for the Department of Natural Resources Recreational Trails Program (RTP). The RTP funds represent a portion of the motor fuel excise tax collected from non-highway recreational fuel use: fuel used for off-highway recreation by snowmobiles, all-terrain vehicles, off-highway motorcycles, and off-highway light trucks. The U.S. Department of Transportation manages RTP on a federal level through the Federal Highway Administration (FHWA); however, local administration of the program lies at the state level.

The RTP is a reimbursement program; therefore, the grant recipient must pay 100 percent of the cost of an item before submitting a request for reimbursement for 80 percent of eligible costs. The program encourages the donation of private funds, materials, new right-of-way, and services at fair market value. These donations can be counted toward the match.

He added the City has partnered with SCT through an approved Park Management Agreement to manage approximately 308+/- acres of conservation land located at the south end of Burch Road. The SCT, as a result of their work at the Ridge Nature Area, will be applying for funds in the amount

of \$100,000.00 to be used for additional trails and buildings (gazebo, outlook tower). The grant application process requires a resolution from the governing authority that supports the application.

He said Staff recommends approval of Resolution R-38-15 that will support the Georgia RTP grant application submitted by SCT.

Johnson moved to approve R-38-15 – The Ridge Nature Area Grant Application. Stacy seconded the motion. Motion carried unanimously.

Mayor Clifton called Consider R-39-15 – City Support of DDA agreement with Dept. of Community Affairs (DCA) for Loan to Fayetteville Oz, LLC.

Brian Wismer, Director of Community Development stated that Staff, along with the Fayetteville Downtown Development Authority, requests Mayor and Council to support and approve the intergovernmental agreement between the Downtown Development Authority and the Department of Community Affairs.

This resolution will allow the Downtown Development Authority to implement a loan in the amount of \$88,500 for the renovation and historical rehabilitation of 107 Stonewall Avenue East on the downtown square. Specifically, the Downtown Development Authority will act as the sub-recipient of the loan funds from the Department of Community Affairs and in turn lend such funds to Fayetteville OZ, LLC. Low interest loans such as these, allow the Authority to act as a conduit to further our efforts of improving and revitalizing the downtown district. Similar loans from the Dept. of Community Affairs have been issued in the community over the past 10 years and have been a valuable tool in downtown development across the state.

Stacy moved to approve R-39-15 – City Support of DDA agreement with Dept. of Community Affairs (DCA) for Loan to Fayetteville Oz, LLC. Edwards seconded the motion. Motion carried unanimously.

Mayor Clifton called Consider Modification to the Christmas Parade Route.

Brian Wismer, Director of Community Development stated Main Street staff, along with the Fayetteville Police Dept., proposes an amendment to the existing parade route in the upcoming Main Street Christmas Parade this Saturday, December 5, 2015.

The route is similar to the one successfully used in recent years, but brings the parade around all sides of the downtown square, and also allows the parade to move in both directions simultaneously on S. Glynn Street. This will create more energy for the parade spectators and provide more emphasis to the historic town center. Staff is excited about the modification to the route and requests approval as submitted.

Oddo moved to approve Modification to the Christmas Parade Route. Johnson seconded the motion. Motion carried unanimously.

City Manager and Staff Reports:

Ray Gibson, City Manager stated the Budget Book has been completed and will be forwarded to GFOA.

Mr. Gibson announced our City Employee Christmas party will be held next Wednesday, December 9th from 12:00pm – 2:00pm at the First Baptist Church in Fayetteville.

Mayor's Comments:

Mayor Clifton said since Councilmember Jim Williams will not be at the next meeting, he wanted to let him know that he appreciated working with him over these last four years. He especially appreciated Councilman Williams' hard work on acquiring Georgia Military College's location in Fayetteville.

Mayor Clifton reminded everyone of the Christmas Parade and Tree Lighting this Saturday beginning at 5:00pm.

Public Comments:

Resident Al Hovey-King thanked city staff on a job well done on the Budget.

He also thanked Council for tabling the TAD item. He read information about possible problems/risks of a TAD and asked Council to review as much on the subject as they could in order to make an informed decision.

Oddo moved to adjourn the meeting. Williams seconded the motion. The motion carried unanimously.

Respectfully submitted,

Anne Barksdale, City Clerk